

ORDINANCE NO. 19-18

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30, LAND DEVELOPMENT REGULATIONS RELATED TO SETBACK ENCROACHMENTS WITHIN THE VILLAGE; AMENDING SECTION 30-32 "SPECIFIC DEFINITIONS"; TO SPECIFICALLY AMEND DEFINITIONS RELATED TO STRUCTURES THAT CAN ENCROACH INTO REQUIRED SETBACKS; AMENDING ARTICLE V "SCHEDULE OF DISTRICT USE AND DEVELOPMENT STANDARDS TO CREATE AND ADD DIVISION 11, SECTION 30-930 "SETBACK ENCROACHMENTS"; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY

WHEREAS, Islamorada, Village of Islands (the "Village") has adopted a comprehensive set of Land Development Regulations (the "LDRs") to implement the Village Comprehensive Plan; and

WHEREAS, the Village desires to amend Chapter 30 "Land Development Regulations" Article II "Rules of Construction and Definitions", Sec. 30-32 Specific Definitions related to structures that can encroach into setbacks, and

WHEREAS, the amendment would establish Division 11. Setback Encroachments to Article V. of the LDRs, add definitions and modify standards for setback encroachments; and

WHEREAS, the provisions of this Ordinance are consistent with the Village Comprehensive Plan and the Principles for Guiding Development within the Florida Keys Area of Critical State Concern; and

WHEREAS, the Village Council of Islamorada, Village of Islands (the “Village Council”) finds that the provisions of this Ordinance are intended to advance the public health, safety, and welfare of the citizens of the Village.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true, correct and incorporated herein by this reference.

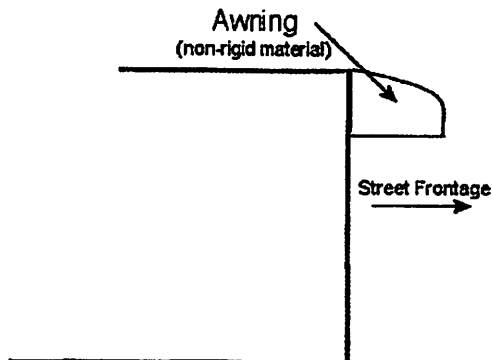
Section 2. **Amending Specific Definitions.** Chapter 30 “Land Development Regulations” Article II “Rules of Construction and Definitions”, Sec. 30-32 Specific Definitions of the Code is hereby amended to read as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as striketrough
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Sec. 30-32. - Specific definitions.

Words as used in this chapter shall have the meanings described below, unless otherwise defined in another article, division, section, or paragraph of this chapter:

Awning: ~~means a detachable canvas or other non-rigid material protection against sun or weather on a rigid frame structure projecting from and supported entirely by an~~ from the exterior walls of a building, in a fixed position, with a cover made from non-rigid material.



Bahama Shutters: a single shutter that covers a window that is hinged at the top and has standoffs on the sides to hold them open.

Balcony: a floor area extension beyond the facade of a building, which is open to the elements on at least one side.

Canopy: means a temporary, detachable canvas or other non-rigid protection against sun or weather, on a rigid metal frame supported entirely or in part by posts attached to the ground or deck, floor or parapet of the building. ~~solid, roof-like projection (a roof overhang) that is integral to the building structure and that shelters the ground in front of the building to which it is attached.~~

Carport: a canopy or roof-like structure that is attached to or abuts a principal structure and is opened on at least two sides for the purposes of providing shelter for one or more vehicles.

Easement: a grant by a property owner of the use of all or part of his land to another party for a specific purpose.

Eave: the projecting lower edges of a roof overhanging the wall of a building.

Gazebo: a freestanding roofed accessory structure which is not enclosed, except for screening and which is utilized for the purpose of relaxation in conjunction with a residential dwelling.

Mechanical equipment: equipment for the use of functioning mechanical or electrical systems including but not limited to: heat pumps, air conditioning units, pool pumps, solar collectors panels, and permanently installed generators.

Outdoor Kitchen: an outdoor cooking facility not intended or used as the primary cooking facility or kitchen that may consist of, but not limited to, an under-counter refrigerator, grill, burner(s), rotisserie, smoker or sink.

Porte-cochere: an attached porch or cover structure under which a vehicle may be driven temporarily to protect the occupants when alighting. A port-cochere shall not be constructed to be a "carport"

Safe Upland Line: a line at or above the mean or ordinary high-water line used to calculate the acreage of a parcel of land as defined by the Florida Administrative Code.

Setback: means an open space at grade between a building or structure and the property line, access easement line, safe upland line or mean high-water line of the lot or parcel of land on which the building or structure is located, unoccupied and unobstructed from the ground grade upward, except as provided in Division 11. Setback Encroachments follows:

- (1) — driveways;
- (2) — ~~walkways up to five (5) feet in width;~~
- (3) — ~~roof overhangs (e.g., cornices, eaves) of up to two feet in width so long as:~~
a minimum five foot setback is maintained; and
b. any setback required by article VII (environmental regulations) of this chapter is maintained;
- (4) — ~~landscaping, bufferyards, scenic corridors, street trees, stormwater retention areas and swales as required by this chapter; and~~
- (5) — ~~as otherwise this chapter.~~

In measuring a setback, the minimum horizontal distance between the property line, access easement line, safe upland line or mean high-water line and the furthestmost projection of the building or structure shall be used. Every required setback shall be measured at right angles (90 degrees) from the property line, access easement line, safe upland line or mean high water line.

Vehicular use area: all areas used for the circulation, parking or display of any and all types of vehicles, boats or heavy construction equipment, whether self-propelled or not, including those of a drive-in and drive-thru nature.

Window, bay: a window which projects outside the main line of a building which does not extend below minimum finish floor elevation, and may be carried on brackets or corbels

Section 3. **Establishing Division 11 “Setback Encroachments”** Chapter 30 “Land Development Regulations” Article V “Schedule of District Use and Development Standards”, of the Code is hereby amended to establish Division 11 “Setback Encroachments” and create Section 30-930 “Setback Encroachments” and reads as follows:

DIVISION 11. SETBACK ENCROACHMENTS

Sec. 30-930 – Setback Encroachments.

- (A) Every part of every required front, side, rear, shoreline and marine turtle nesting setback shall remain unoccupied and unobstructed from grade upward except as or as indicated within [Article VII Environmental Regulations](#) or as provided herein:
- 1) Roof overhangs, cornices, chimneys, eaves, sills and belt courses may extend into any required setback area, provided that any such setback encroachment shall not exceed three (3) feet or one-third (1/3) of the width of the required setback, whichever is less, and a minimum setback of five (5) feet from any side yard shall be maintained.
 - 2) Awnings and canopies, which are attached to a principal building and well-maintained, may extend into any required setback, provided that any such setback encroachment shall not exceed five (5) feet or one-third (1/3) the width of the required setback, whichever is less.
 - 3) Boats, boat trailers, camper trailers or recreational vehicle storage. In all zoning districts, accessory storage of such vehicles shall be within the front, side or rear yards. No such vehicle shall be utilized as a dwelling unit and shall be screened with native vegetation from view of any adjoining property.
 - 4) Balconies may encroach up to five (5) feet or one-third (1/3) the width of the required setback, whichever is less.
 - 5) Carports may encroach within five (5) feet of any front or rear setback, provided that such structures shall be attached to or abut a principal building, shall be open on at least two (2) sides, shall be supported by posts or columns and shall extend over a paved driveway which connects to an adjacent street or alley. Carports associated with single-family residences may not exceed a total of four hundred (400) square feet and may have a maximum width of twenty (20) feet and a maximum depth of twenty (20) feet. Carports must be harmonious with the principal structure to which they are associated and maintained.

- 6) Chickee and Tiki Huts may be permitted in all residential zoning districts provided that such structures shall maintain a minimum setback of five (5) feet from any side or rear lot line, and shall not exceed a maximum height of fifteen (15) feet. Chickee and Tiki huts are prohibited within the front yard and such structures shall be open on all sides, with the exception of supporting posts, and have an unobstructed, clear space between the edge of the roof covering and the grade.
- 7) Driveways may be permitted within the required setback, pursuant to the requirements set forth in Section 30-855;
- 8) Landscaping, bufferyards, scenic corridors, street trees, stormwater retention areas and swales pursuant to the requirements set forth in Chapter 30, Land Development Regulations.
- 9) Mechanical equipment or decks may encroach up to four (4) feet into any required side yard or rear yard setback, provided that at least one (1) side yard maintains a minimum continuous unobstructed width of five (5) feet. Mechanical equipment must be located at the minimum finished floor elevation required for the principal structure to which they are associated and must be screened with native vegetation from ground view of surrounding and adjacent properties. Window air conditioning units may encroach up to eighteen (18) inches into any required setback.
- 10) Porte-cocheres may encroach to within thirteen (13) feet of any front yard setback, provided that such structures are constructed of masonry or with a design compatible with the principal structure, shall be opened on three (3) sides, shall be a maximum length of twenty (20) feet, and shall have a roof with a pitch equal to or greater than that of the principal structure with matching materials. The porte-cochere shall not exceed thirty (30) percent of building core frontage in width or sixteen (16) feet in height or be screened or enclosed in any manner. It shall provide an unobstructed, clear space of not less than nine (9) feet between the grade and the underside of the roof of the porte-cochere.
- 11) Gazebos and pergolas may be permitted within all residential zoning districts provided that such structures shall maintain a minimum setback of five (5) feet from any side or rear lot line, shall not exceed one hundred and forty-four (144) square feet in gross floor area, shall not exceed a height of fifteen (15) feet. Placement of such structures within the front yard is prohibited.
- 12) Bay windows may extend into any required setback area nor more than either three (3) feet or one-third (1/3) the width of the required setback, whichever is less, and shall maintain a minimum setback of five (5) feet from any side yard, provided that such structure shall not exceed twenty (20) square feet in gross floor area or seating area.
- 13) Outdoor kitchens may be permitted within all residential zoning districts, provided that such structure shall maintain a minimum setback of five (5) feet from any side or rear lot line, shall not exceed one hundred and forty-four (144) square feet in gross floor area, and are prohibited in the front yard. Outdoor kitchens may be open-aired or roofed. The design of an outdoor kitchen must be aesthetically pleasing and harmonious with the principal structure to which they are associated.
- 14) Exterior staircases may encroach into any front, side or rear yard setback up to five (5) feet, provided any such staircase is only for ground floor access to the principal structure, and a

minimum setback of five (5) feet from any side yard shall be maintained. Exterior staircases that encroach into a setback shall not be enclosed, shall not provide access to a second floor living area and may not extend to the roof of the principal structure. The design of exterior staircases must be aesthetically pleasing and harmonious with the principal structure to which they are associated

- 15) Fish cleaning stations shall not exceed fifteen (15) square feet and shall maintain a minimum setback of six (6) inches from any side yard. Fish cleaning stations shall not extend beyond the edge of an associated dock pursuant to Section 30-1548(3).
- 16) Storage structures and utility sheds are prohibited within the front yard, and are required to maintain a minimum distance of five (5) feet from any rear yard lot line. Such structures must be located so as to meet the requisite side yard setbacks prescribed to the zoning district in which it is located. Only one (1) storage structure or utility shed may be permitted per property and such structure shall not exceed fifteen (15) feet in height.
- 17) Walkways up to five (5) feet in width may be permitted within a required setback.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Repeal of Conflicting Provisions. The provisions of the Code and all Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 5. Inclusion in the Code. It is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become a part of the Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. Transmittal to the Florida Department of Economic Opportunity. The provisions of this Ordinance constitute a “land development regulation” as State law defines that term. Accordingly, the Village Clerk is authorized to forward a copy of this Ordinance to the Florida Department of Economic Opportunity (“DEO”) for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

Section 7. Effective Date. This Ordinance shall not be effective until approved pursuant to a final order by DEO, pursuant to Chapter 380.05, Florida Statutes; or if the final order is challenged, until the challenge to the order is resolved pursuant to Chapter 120, Florida Statutes.

The foregoing Ordinance was offered by Vice Mayor Mike Forster, who moved for its adoption on first reading. This motion was seconded by Councilman Ken Davis, and upon being put to a vote, the vote was as follows:

Mayor Deb Gillis	YES
Vice Mayor Mike Forester	YES
Councilman Ken Davis	YES
Councilwoman Cheryl Meads	ABSENT
Councilman Jim Mooney	YES

PASSED on the first reading this 8th day of August, 2019.

The foregoing Ordinance was offered by Councilman Ken Davis, who moved for its adoption on second reading. This motion was seconded by Vice Mayor Mike Forster, and upon being put to a vote, the vote was as follows:

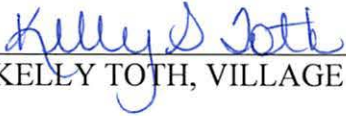
Mayor Deb Gillis	YES
Vice Mayor Mike Forester	YES
Councilman Ken Davis	YES
Councilwoman Cheryl Meads	YES
Councilman Jim Mooney	YES

PASSED AND ADOPTED on the second reading this 29th day of August, 2019.



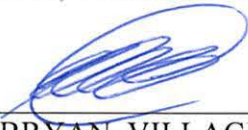
DEB GILLIS, MAYOR

ATTEST:



KELLY TOTH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS ONLY



ROGET V. BRYAN, VILLAGE ATTORNEY